

Remarks/Arguments

In the Office Action of October 6, 2006, the Examiner rejected claims 1, 4, 5, 10, 11 and 14 under 35 U.S.C. § 112, second paragraph. Claims 11-14 are rejected under 35 U.S.C. § 102 over U.S. Patent No. 3,518,101. The examiner also indicated that claims 1, 4, 5 and 10 would be allowable if rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph.

In response to the Action, applicants have amended the claims, which when considered with the following distinguishing remarks, is believed to place the present case in condition for allowance. Favorable reconsideration of all of the pending claims is respectfully requested.

Regarding the rejections under 112, second paragraph, the claim amendments implemented herein are believed to overcome and/or render said rejections moot. Reconsideration and withdrawal of these rejections is respectfully requested. Additionally, in view of these amendments, it is now believed that all of claims 1-9 are in condition for allowance, which action is respectfully solicited.

Concerning the rejection of claims 11-14 under 35 U.S.C. § 102 over U.S. Patent No. 3,518,101 (the "101 patent"), applicants provide the following distinguishing commentary.

The '101 patent generally relates to and discloses cationic asphalt emulsions, wherein the emulsifying agent is a salt of an amine in combination with a polybasic acid. The general formula of the amine compounds contemplated by the '101 patent is found at column 2, starting at line 46 of said patent. That general formula differs from the amine compounds of the present invention mainly in that the substituents on the nitrogen atoms can be hydrogen (as well as alkyl or alkyleneoxy groups), whereas in the present application it can only be alkyl or alkyleneoxy groups.

Additionally, at column 3 of the '101 patent, one of the suggested examples of amine compounds is fully ethoxylated diamines. Then there is also a general list of polybasic acids where orthophosphoric acid is but one of the candidates (column 3 lines 45-62). Here it is not suggested nor disclosed that orthophosphoric acid should preferably be used together with the fully ethoxylated diamines. It could just as easily be combined with any other compound that belongs to the general formula in column 2, with a monoamine, a diamine or an ethoxylated amine.

Finally, the '101 patent contains but one working example where orthophosphoric acid is used to make an amine salt (Table I). Ethoduomeen T12 is used as the amine component for this orthophosphoric acid salt (column 4, line 48). This amine component is a tallow amine that has been reacted with 2 moles of EO, i.e. this amine compound still has one position on one of the nitrogens that is substituted by hydrogen. Thus this specific amine salt is not within the scope of the present invention. Accordingly, applicants respectfully submit the '101 patent nowhere discloses the specific combination of applicants diamine salt and polyvalent phosphoric acid as claimed by claims 11-14.

In view of the foregoing, the rejection of claims 11-14 under § 102(b) is believed to be improper; reconsideration and withdrawal thereof is respectfully requested.

Therefore, in view of the amendments and remarks herein, the present case is believed to be in condition for allowance, which action is respectfully requested.

Respectfully submitted,



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